

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 MICHAEL JAMES BETTS,)
10 Petitioner,) 3:11-cv-00422-LRH-WGC
11 vs.)
12 RENEE BAKER, *et al.*,)
13 Respondents.) /

/

15 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254,
16 by a Nevada state prisoner. By order filed January 6, 2012, this Court denied petitioner's motions
17 for discovery. (ECF No. 25). On January 17, 2012, petitioner filed a notice of appeal as to the
18 Court's January 6, 2012 order. (ECF No. 26).

In order to proceed with his appeal, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9th Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9th Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir. 2001). Generally, a petitioner must make “a substantial showing of the denial of a constitutional right” to warrant a certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). “The petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Id.* (*quoting Slack*, 529 U.S. at 484). In order to meet this threshold inquiry, the petitioner has the burden of demonstrating that the issues are debatable among jurists of reason; that a court could resolve the issues differently; or that the questions are adequate to deserve encouragement to proceed further. *Id.*

In the present case, the Court denied petitioner's motions for discovery because petitioner failed to show good cause to conduct discovery in the instant habeas case. See Rule 6 of the Rules Governing Section 2254 Cases; see also *Bracy v. Gramley*, 520 U.S. 899, 905-909 (1997). (ECF No. 25). No reasonable jurist could conclude that the Court's order denying discovery was in error. Petitioner is not entitled to a certificate of appealability.

IT IS THEREFORE ORDERED that petitioner's notice of appeal, construed as an application for a certificate of appealability (ECF No. 26), is **DENIED**.

8 **IT IS FURTHER ORDERED** that the Clerk shall send a copy of this order to the United
9 States Court of Appeals for the Ninth Circuit.

Dated this 16th day of May, 2012.

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**LARRY R. HICKS
UNITED STATES DISTRICT JUDGE**